

Step 2 Following a fair procedure

If an employer feels they need to start a disciplinary procedure, it's important to tell the employee straight away.

They should put this in writing, for example in a letter or an email. This should include:

- information about the alleged misconduct or poor performance
- possible consequences, for example a written warning

The employee should have this information in time to prepare for a disciplinary 'hearing'. This is a meeting where the employer considers all the evidence before making a decision.

The employer must make sure they follow a full and fair procedure throughout.

This is for the protection of the employee, the employer and their organisation.

The importance of following a fair procedure

The [Acas Code of Practice on disciplinary and grievance procedures](#) is the minimum an organisation should follow.

You might have your own code or policy with some differences that better suits your organisation.

Although the Acas Code is not the law, if a disciplinary case reaches an employment tribunal, judges will take into consideration whether the employer has followed the Acas Code in a fair way.

The Acas Code mainly applies to those [legally classed as an employee](#). But to keep good working relationships, employers should follow the same fair procedure for all workers.

Training for employers and managers

To learn more about the Acas Code and how to follow a formal procedure, you can book [Acas training on discipline and grievance](#).

If anything similar has happened before

Employers should check whether their organisation has dealt with a similar situation before.

To ensure fair treatment, employers must follow the procedure and policy in the same way for each disciplinary case.

They should gather evidence and make a decision based on what they know about each case.

Keep talking

It's important throughout the procedure for the employer to keep talking with both the employee being disciplined and any other staff affected.

Clear, regular and confidential communication can help avoid:

- misunderstandings
- a drop in work morale
- stress or other mental health problems
- further action, for example the employee raising a grievance
- legal action in the future

The employer must keep all personal information confidential in line with data protection law.

Looking after employees' wellbeing and mental health

Going through a disciplinary procedure can be very stressful. It's important that employers consider the wellbeing and mental health of their employees.

Looking after the employee's wellbeing and offering support can help prevent:

- absence
- mental health problems
- existing mental health problems getting worse

For example, as well as regular communication, the employer could arrange any meetings in a more private and comfortable location if this would help the employee.

[Find out more about supporting mental health at work](#)

If the employee raises a grievance

If the employee raises a grievance during the disciplinary procedure, the employer can pause the disciplinary and deal with the grievance first.

It might be appropriate to deal with both at the same time if the grievance and disciplinary cases are related.

[Find out more about dealing with grievances at work](#)

If the employee wants to resign

The employee might want to resign or feel they have to leave when facing a disciplinary.

This could lead to the employee later claiming [constructive dismissal](#) at an employment tribunal. They can only do this if they have worked for the organisation for 2 years or more.

The employer should try and talk through any concerns with the employee. They should give them the chance to change their decision to resign.

[Find out more about resignation and dismissals](#)

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